



PATENT  
Customer No. 22,852  
Attorney Docket No. 06502.0023

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
)  
John TANG et al. ) Group Art Unit: 2174  
)  
Application No.: 08/885,597 ) Examiner: L. Nguyen  
)  
Filed: June 30, 1997 )  
) Confirmation No.: 7560  
For: ANIMATED INDICATORS THAT )  
REFLECT FUNCTION ACTIVITY )  
OR STATE OF OBJECTS DATA )  
OR PROCESSES )

**OFFICE OF PATENT LEGAL ADMINISTRATION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT**  
**UNDER 37 C.F.R. §1.705(b)**

In accordance with 37 C.F.R. §1.705, Applicants hereby request reconsideration of the patent term adjustment of 975 days as indicated on the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) ("Determination") for the above-referenced application. Specifically, as described below, this patent is entitled to 1,026 days of additional patent term. As required by 37 C.F.R. §1.705(b)(1), this Request is accompanied by a check to pay the \$200.00 fee set forth in 37 C.F.R. §1.18(e).

The PAIR printout, indicating how the Patent Office calculated the 975 day patent term adjustment indicated in the Determination, is attached hereto.

The PAIR printout incorrectly indicates that the U.S. Patent and Trademark Office (PTO) accrued 1,032 days of delay. As indicated on the PAIR printout and the date stamp on the attached copy of the Decision on Appeal, the Decision on Appeal was dated April 24, 2004, whereas the actual mailing date of the Decision on Appeal was May 24, 2004. Applicants respectfully request that an additional 30 days be added to the Patent Office's accrued patent term adjustment making the correct number 1,062 days.

The PAIR printout also incorrectly indicates that the patent term adjustment should be reduced 57 days. A Final Office Action was mailed on March 7, 2001, indicating that the Response After Non-Final Action was not persuasive. The undersigned attorney contacted the Examiner on March 19, 2001 to explain that the finality of the Office Action was improper (see Interview Summary of March 19, 2001). In a subsequent non-Final Office Action mailed March 28, 2001, the Examiner stated that "the Applicants' request for reconsideration of the finality of the rejection of the last Office Action was persuasive and thus the finality of that Action was withdrawn." (See Office Action of March 28, 2001, p. 15.) The PAIR printout, however, reduces the patent term adjustment by 21 days ignoring the fact that the Examiner admitted his error and issued a non-Final Office Action, which restarted the period for response (copy of non-Final Office Action and Interview Summary attached).

Applicants agree that the patent term adjustment should be reduced 36 days for the filing of an Information Disclosure Statement on February 9, 2005, following the filing of the Response after Non-Final Action on January 4, 2005.

Accordingly, the accrued patent term adjustment of 1,062 days should be reduced by 36 days, making the correct patent term adjustment 1,026 days.

In accordance with 37 C.F.R. §1.705(b)(2)(iv)(B), there was no circumstance, other than discussed above, constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in 37 C.F.R. §1.704.

In accordance with 37 C.F.R. §1.705(b)(iii), this application is not subject to a Terminal Disclaimer.

Please grant any extensions of time required to enter this Request for Reconsideration and charge any additional required fees to our Deposit Account No. 06-0916.

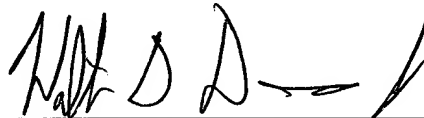
Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: October 7, 2005

Attachments: Copy of non-Final  
Office Action mailed March 28, 2001  
Copy of Interview Summary  
Copy of Decision on Appeal  
Copy of PAIR printout

By:



Walter D. Davis, Jr.  
Reg. No. 45,137



**UNITED STATES DEPARTMENT OF COMMERCE**  
**United States Patent and Trademark Office**

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
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08/885,697 06/30/97 TANG

J 066023023

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TM02/0328

EXAMINER

JOSEPH. T

ART UNIT

PAPER NUMBER

2173

DATE MAILED:

03/28/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

RECEIVED

MAR 30 2001

FINNEGAN, HENDERSON,  
FARABOW, GARRETT & DUNNER, L.L.P.

Docketed 3-30-01 Attorney JAB-WDD  
Case 6502-23  
Due Date 6-28-d next  
Action Response RP  
By WAS 3-30-01

# Office Action Summary

Application No.  
**08/885,597**

Applicant(s)  
**John Tang**

Examiner  
**Thomas Joseph**

Group Art Unit  
**2173**



☒ Responsive to communication(s) filed on Feb 16, 2001

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle* 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-32 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-32 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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### DETAILED ACTION

1. Applicant's arguments filed on 2-16-2001 have been fully considered but they are not persuasive.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 13, 29, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baecker (pat. # 5,479,602) in view of Johnson (pat. 5,880,729).

Baecker discloses a computer readable medium for the storing of data and instructions (col. 4, lines 25 - 45).

Claims 1, 13, and 32 are rejected. Baecker discloses an animation sequences where the animation appears to be repeatedly scanning over a given number of document sections (col. 8, lines 49 - 57). Baecker discloses modifying the appearance of the animation icon when the corresponding file or folder representing the icon changes (col. 8, lines 58 - 67). Baecker discloses a process which generates new animation frames whenever the file or folder representing the icon changes (col. 8, lines 58 - 67).

Baecker fails to teach transitional visual effects, or animation for allowing users to view the transition of an object between two different static states of elements within the GUI.

Johnson teaches using transitional visual effects, or animation for allowing users to view the

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transition of an object between two different static states of elements within the GUI (col. 2, lines 40 - 50). Johnson teaches the display of an animated icon on a screen when another element associated with the computer system changes (col. 2, lines 40 - 50) can be interpreted as detecting an event reflecting a change in the state of the container. This can be interpreted as cyclically display a series of frames as an animated sequence which reflect a change in the state of the container. Any process resulting from the activation of an icon can be interpreted as detecting an event reflecting a change in the state of the container, wherein the container is a separate page related to user discussion. Icons used for linking to a URL is a container containing a web page related to user discussion. It is obvious to one with ordinary skill in the art to determine based on the detected event whether an animated sequence does not reflect the state of the container. Doing so allows the user to detect whether a change has occurred to a computer file while the user passively observes without entering additional inputs. It is obvious to one with ordinary skill in the art to update the cyclical display based on the determination. Doing so informs the user of changes while a the user passively observe the said changes.

Claim 29 is rejected. Johnson discloses the use of animation which represent the characteristics of an object which can also be a container or be related to a container while the object is undergoing a change of state (col. 4, lines 20 - 33). Johnson teaches use of icons and other graphical symbols and representations (fig. 1). It is obvious to one with ordinary skill in the art for the process of claim 1, wherein the frames include characteristics that are symbolic of objects of the container. Doing so provides both animated and static icons which are more easily recognizable by the user.

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Claim 31 is rejected. Baecker discloses a computer readable medium in rejected claim 1.

The rationale of claim 29 is incorporated into claim 30.

4. Claims 2 - 4, 10, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baecker (pat. # 5,479,602) and Johnson (pat. 5,880,729) as applied to claims 1 and 13 above, and further in view of Gudmundson (pat. 5,680,619). Baecker discloses a computer readable medium for the storing of data and instructions (col. 4, lines 25 - 45).

Claim 2 is rejected. Baecker in view of Johnson fail to teach individual objects undergoing a change in state. Gudmundson discloses individual objects undergoing a change in state represented by fish in an aquarium expressing behavior (fig. 33; col. 64, lines 49 - 67). Gudmundson discloses objects represented by the use of animated fish icons which make behavior responses such as schooling like fish in a body of water when they come in near proximity of one another on the computer display (fig. 33; col. 64, lines 49 - 67; col 65, lines 1- 15). It is obvious to one with ordinary skill in the art to incorporate the methods of displaying graphical items as fish or other icons into Gudmundson and Baecker because doing so can reduce the need for the user to change position to view a screen or enter input when observing the progress of a software object. It is obvious to one with ordinary skill in the art to incorporate Gudmundson into the process of claim 1 taught by Baecker, wherein the cyclical display provides an intuitive representation of a degree of the change in the state of the container. Doing so allows the user to view and track changes while the user passively observe the display without the entering of additional inputs.



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Claim 3 is rejected. Baecker in view of Johnson fail to teach individual objects undergoing a change in state. Gudmundson discloses representing similar objects by similar type of fish which school while representing less similar object by different types of fish which compete with one another (fig. 33; col. 64, lines 49 - 67). Gudmundson discloses a given number of fish representing the given number of objects (fig. 33; col. 64, lines 49 - 67). It is obvious to one with ordinary skill in the art to incorporate the methods of displaying graphical items as fish or other icons into Baecker because doing so can reduce the need for the user to change position to view a screen or enter input when observing the progress of a software object. It is obvious to one with ordinary skill in the art to incorporate Gudmundson into the process of claim 1 taught by Baecker, wherein the cyclical display reflects the numbers and types of objects. Doing so updates the user of types and number of active objects without requiring additional input.

Claim 4 is rejected. Baecker in view of Johnson fail to teach a cyclical display which embeds audio information in the generated frames. Gudmundson discloses a stay in tank behavior command which produces a bounce sound when a fish object collides with the given border (col. 65, lines 40 - 62). It is obvious to one with ordinary skill in the art to incorporate the methods of displaying graphical items as fish or other icons into Baecker in view of Johnson because doing so can reduce the need for the user to change position to view a screen or enter input when observing the progress of a software object. It is obvious to one with ordinary skill in the art to incorporate Gudmundson into the process of claim 1 taught by Baecker, wherein the cyclical display embeds audio information in the generated frames. Doing so signals information

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regarding object state without requiring the user to neither take time to view the computer screen nor enter input into an input device.

Claim 10 is rejected. The rationale for claim 10 is disclosed in claim 4.

Claim 14 is rejected. Baecker in view of Johnson in view of Gudmundson disclose the rationale for claim 14 in rejected claim 2.

Claim 16 is rejected. Gudmundson discloses embedding sound into animated frames in rejected claim 4. Baecker and Johnson disclose the cyclical display of animated frames in rejected claim 1. Baecker in view of Johnson in view of Gudmundson teach using a cyclical sound to be embedded into a cyclical animation in rejected claim 4. It is obvious to one with ordinary skill in the art for the computer readable medium of claim 13 to further include instructions for embedding audio information in the cyclical display. Doing so informs the user that the computer is in a normal processing state without requiring that the user change positions to view some type of computer device.

5. Claims 5, 6, 9, 12, 11, 15, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baecker (pat. # 5,479,602) in view of Johnson (pat. 5,880,729) in view of Gudmundson (pat. 5,680,619) as applied to claims 1 and 2 above, and further in view of Gallagher. Baecker discloses a computer readable medium for the storing of computer readable data and instructions (col. 4, lines 25 - 45).

Claims 5 and 17 are rejected. Baecker in view of Johnson in view of Gudmundson fail to teach using the rate of change the rate that new frame are displayed during animation when determining the quality of animation required for a given procedure. Gallagher discloses using the

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rate of change the rate that new frame are displayed during animation when determining the quality of animation required for a given procedure (p. 220). Gallagher discloses color table animation where a palette is used for displaying color in an animated image (p. 222). Gallagher discloses color cycling for mapping a sequence of moving events onto a range of color indices (p. 223). Gallagher discloses color cycling being used for particle traces, especially fluid flow through a container (p. 223). Gallagher discloses using a rate of change at a speed where colors appear to be moving (p. 223). Gallagher discloses uses color cycling at a speed where animation appears on the screen thus giving the user an illusion of motion on the screen (p. 223). Gudmundson discloses providing an object and view menu where color, sound, motion, and size data corresponding to an object represented by a fish can be modified (col. 21, lines 50 - 67). It is obvious to one with ordinary skill in the art to incorporate the methods of displaying graphical items as fish or other icons into Gallagher and Baecker because doing so can reduce the need for the user to change position to view a screen or enter input when observing the progress of a software object. It is obvious to one with ordinary skill in the art to incorporate into the process of claim 2, wherein the cyclical display uses one of color variations, tempo, motion, and change in size to represent the degree of the change in the state of the container. Doing so signals information regarding object state while reducing the need for the user to change physical position for the entering of input and the viewing of an output display.

Claims 6 and 18 are rejected. Gudmundson discloses displaying representing the number of objects in the form of some type of animal in rejected claim 3. Rejected claim 5 incorporates the rationale for using color variations, tempo, and changing motion and size. It is obvious to one

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with ordinary skill in the art to incorporate into the process of claim 3, wherein the cyclical display uses color variations, tempo, motion, and change in size to reflect the number or type of the objects in the container. Doing so signals information regarding object state while reducing the need for the user to change physical position for the entering of input and the viewing of an output display.

Claim 9 is rejected. The rationale for claim 9 is disclosed in claim 6.

Claim 11 is rejected. The rationale for claim 11 is disclosed in claim 5.

Claim 12 is rejected. The rationale for claim 12 is disclosed in claim 6.

Claim 15 is rejected. Baecker discloses a computer medium with instructions for executing a program in rejected claim 1. The rationale for the rest of claim 15 is disclosed in claim 6.

6. Claims 7, 19 - 21, 25, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (pat. 5,880,729).

Claim 7 is rejected. Johnson discloses a RAM, ROM, and processor connected by a bus (fig. 4b). Johnson discloses using software in memory to display the status by displaying an animation sequence corresponding to the find button; the find button can be considered a type of software container (fig. 5; col. 3, lines 65 - 68; col. 4, lines 1 - 20). Johnson discloses displaying state changes which correspond with state changes (fig. 6; col. 4, lines 34 - 50). Johnson discloses detecting changing of software state through the use of active animation (fig. 6; col. 4, lines 34 - 50). Johnson discloses cyclically displaying an animated sequence in the form of a rotating button (fig. 5; col. 3, lines 65 - 68; col. 4, lines 1 - 20). Johnson discloses storing and

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executing programs such as a GUI in memory (fig. 4; col. 3, lines 44 - 64). Johnson teaches the use of a software program which can be interpreted as requiring a processor configured to execute programs in memories (abstract). It is obvious to one with ordinary skill in the art to display on which a series of frames is cyclically displayed in an animated sequence. Doing so makes the passive user or other observer aware when the software is in a normal processing state. It is obvious to one with ordinary skill in the art to provide a memory which includes a software container and an animated indicator program including computer code for monitoring the software container to detect an event reflecting a change in a state of the container, for determining based on the detected event whether an animated sequence does not reflect the state of the container, and for generating a series of frames to reflect a state of the container based on the determination. Doing so enhances the ability of the computer programmer to track the state of software programs undergoing execution.

Claims 19 and 25 are rejected. Johnson discloses detecting activity of a menu item (col. 4, lines 20 - 50). Johnson teaches the user of menu which can also be interpreted as a type of software container (col. 4, lines 20 - 50). Johnson discloses updating an animated sequence as to reflect the activity of the button (col. 4, lines 1 - 50). It is obvious to one with ordinary skill in the art to detect activity of the closed container and to update the animated sequence so as to reflect the activity of the closed container. Doing so provides a method for updating the user with information regarding the processes being executed by the computer.

Claim 20 is rejected. Johnson discloses displaying an animated sequence (col. 4, lines 33 - 50).

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Claim 21 is rejected. Johnson demonstrates placing of a cursor such as a mouse pointer on an closed menu which can be interpreted as a type of window (fig. 1). Johnson demonstrates placing a mouse cursor on an icon representing closed windows and other objects, the icon is replaced with corresponding information representing the software represented by the container (fig. 1). It is obvious to one with ordinary skill in the art to interrupt the display of the animated sequence when the corresponding software container is opened because stopping animation and removing of the corresponding icon is widely accepted method for reducing confusion for the user when an application, represented by an icon, is activated for user access.

Claim 30 is rejected. Johnson discloses a computer system in rejected claim 7. The rationale of claim 29 is incorporated into claim 30.

7. Claim 22-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over STN Express ©1996 in view of Johnson (pat. 5,880,729) in view of Nguyen (pat. # 5,978,840).

Claim 22 is rejected. STN Express discloses the coupling of a PC with a mainframe containing a database. STN Express discloses an emulator for the PC which emulates actions of the mainframe allowing the user on the PC to view actions of the mainframe. STN Express discloses a status bar located on the bottom of the PC screen with the word online or offline depending whether the emulator is connected to the mainframe. STN Express discloses displaying the word "online" in green when the mainframe awaits input from the PC user while displaying "online" in red when the user is instructed to await for output from the mainframe after input is entered. STN Express discloses displaying the word "online" in red to signal to the user when the request by the user is being processed. STN Express discloses the display of an

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emulation of a PC screen of data stored on a mainframe which can be interpreted as output retrieved from a database server to a user computer is a reflection of actions taking place on the said database server. STN Express teaches the use of an emulator which can be interpreted as a method where a first computer has acted upon a software container in a second computer.

STN Express fail to teach coupling a database on a different server computer with user computer equipped with a browser where the user requests information from the database server. Nguyen discloses coupling a database on a different server computer with user computer equipped with a browser where the user requests information from the database server (col. 12, lines 48 - 65). Nguyen teaches accessing data through a network (col. 12, lines 48 - 65). Nguyen teaches networking on the Internet (col. 12, lines 48 - 65). It is obvious to one with ordinary skill in the art to detect if a second computer system has acted upon the container. Doing so allows the user to access a graphical based program on a server computer from another computer using technology that is widely accepted in the art and is familiar to users with various levels of expertise.

Nguyen teaches providing animated icons on an Internet server wherein the user of a second computer system accessing the server can execute software stored on the server from the second computer system (col. 12, lines 48 - 65). Animated icons are widely accepted in the operation of Internet software. It would have been obvious to one with ordinary skill in the art at the time of the invention to update an animated sequence to be displayed on the first computer system so as to reflect the actions of the second computer system. The presence of animation in a computer graphic requires the presences of an animation sequence. Doing so is a widely

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accepted method for allowing the user accessing a first computer from a second computer system for viewing a copy of the output from the first computer from the second computer.

Claim 23 is rejected. Claim 22 discloses networking a first and second computer together on the Internet. It is obvious to one with ordinary skill in the art to incorporate into the process according to claim 22, wherein the first computer system and the second computer system are connected to the Internet. Doing so is a widely accepted method which uses universal protocols for allowing a second computer to run software on a first computer.

Claim 24 is rejected. Johnson discloses using a rotating animated icon to represent the changing software states associated with the icons while using static icon representations to represent specific static states (col. 5, lines 20 - 63). It is obvious to one with ordinary skill in the art for the process according to claim 22, further comprising displaying the animated sequence as disclosed by Johnson on the first computer system which is assigned the task of being a server computer. Doing so provides a method for the computer user to observe animated sequences and other graphical processes used for the tracking of database retrieval and other program runs being executed by the server computer.

Claim 26 is rejected. The rationale disclosed in claim 22 is incorporated herein.

8. Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baecker (pat. # 5,479,602) in view of STN Express ©1996 in view of Laggard (pat. # 5,721,908) in view of Johnson (pat. 5,880,729).

Claim 27 is rejected. Baecker teaches the use of a software program which requires a processor configured to execute programs in memory (abstract). Baecker discloses a computer



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system which includes a memory, processor, and data storage device (fig. 1). Baecker discloses providing for the storing of instructions or code on a magnetic disk connected to memory by means of a bus (col. 4, lines 25 - 55). Baecker discloses a display device (fig. 1; col. 1, lines 43 - 55). Baecker teaches the use of a computer program which requires instructions to be read into memory before a processor can execute the instructions (abstract).

Baecker fails to teach a method for allowing one computer to reflect the actions of another. STN Express discloses a method for allowing one computer to reflect the actions of another computer in rejected claim 22. STN Express discloses providing a window, object, or software container for running a mainframe emulation while other programs are also executing on the same computer system. Baecker and Johnson disclose displaying animation in rejected claim 1. It is obvious to one with ordinary skill in the art to provide a display for the display the animated sequence. Doing so is the widely accepted method in the art for the display of moving images including animation. It is obvious to one with ordinary skill in the art to provide a memory containing code for performing a process for reflecting activity of a software container that is closed, including code for detecting activity of the closed container and code for updating an animated sequence so as to reflect activity of the closed container. Doing so allows the user to run multiple programs on the local computer workstation and to view the running of the multiple programs on the computer workstation's display device.

Claim 28 is rejected. The rationale of claim 28 is disclosed in rejected claim 27. It is obvious to one with ordinary skill in the art to provide a memory in a first computer containing code for performing a process for reflecting activity of a network-based software container

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associated with the first computer system, including code for detecting if a second computer system has acted upon the container, and code for updating an animated sequence to be displayed on the first computer system so as to reflect the actions of the second computer system. Doing so allows a user to access a larger and more powerful computer system using only a portion of the resources provided by a different, smaller, and more accessible computer system.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (pat. 5,880,729) as applied to claim 7 above, and further in view of Gallagher.

Claim 8 is rejected. Johnson discloses displaying a transition using animation to show the change of the state of a software container or button from a first state to a second state (col. 6, lines 60 - 70; col. 7, lines 1 - 25).

Johnson fails to teach varying degrees or time rates for observing animation sequences. Gallagher discloses varying degrees or time rates for observing animation sequences (p. 207, para. 2). It is obvious to one with ordinary skill in the art for the computer system of claim 7, wherein the cyclical display provides an intuitive representation of a degree of the change in the state of the container. Doing so provides the user a method for observing changes corresponding to software programs being executed on a computer using technology that is understandable to users of various levels of expertise that is widely accepted in the art.

### ***Response to Arguments***

10. Applicant's arguments filed 2-16-2001 have been considered; however, they have been determined not to be persuasive. The Applicant requests reconsideration of the rejection of claims 1 - 32.

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The Attorney for the Applicant after receiving the response to the previous office action contacted the Examiner on 3-19-2001 to clarify issues stated in the previous request for consideration. The Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Further the previous office action has been vacated.

The Applicant responds to the rejection of claims 1, 13, 29, 31, and 32. The Applicant asserts that the animated sequence by Baecker in view of Johnson fails to teach detecting an event reflecting a change in the state of the container; determining based on the detected event whether an animated sequence does not reflect the state of the container; and updating the cyclical display based on the determination. The Examiner states that Johnson depicts an animation which can be used as a cyclical display for depicting the state of a software container (fig. 5).

The Applicant responds to the rejection of claims 7, 19-21, 25, and 30. The allege that Johnson fails to teach displaying state changes which correspond with sate changes, detecting changing of a software state through the user of active animation, and cyclically displaying an animated sequence in the form of a rotating button. The Applicant asserts that the find button taught by Johnson is nothing more than a trigger for activating a function to be performed. The Examiner responds by stating that the trigger for activating a function is a trigger for detecting an event.

The Applicant responds to the rejection of claims 22, 26 and 28. The Applicant asserts claims 22, 26 and 28 are patentable. The Applicant does assert that art of record fail to teach or suggest updating an animated sequence to be displayed on the first computer system so as to

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reflect actions of the computer system. STN Express demonstrate reflecting actions of one computer system on another. It is also widely acceptable in the art for Internet terminals to display actions which are the reflection of actions of corresponding servers. These actions often include animated sequences to be displayed on the first computer system so as to reflect actions of the computer system.

The Applicant further asserts that the 35 USC 103 of claims 22, 26 and 28 must be withdrawn due to USC 103(c). The Examiner provides a new ground of rejection that overcomes 35 USC 103(c).


The Examiner maintains that the response to the previous rejection of claims 1-32 uses language that can not be understood by one with ordinary skill in the art. Further, the Applicant attempts to argue using language that is not found in the claim language. Due to at least the above reasons, the rejection of claims 1 - 32 remains standing.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Joseph whose telephone number is (703) 305-2277. The examiner can normally be reached on Monday through Friday from 7:30 pm to 4:00 pm.

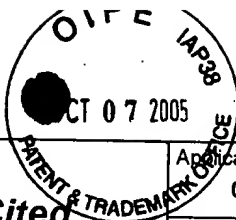
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached on (703) 308-3116. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-6606.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

tjj/03-22-01



RAYMOND J. BAYERL  
PRIMARY EXAMINER  
ART UNIT 2173



# Notice of References Cited

Application No.  
08/885,597

Applicant(s)

John Tang

Examiner

Thomas Joseph

Group Art Unit  
2173

Page 1 of 1

## U.S. PATENT DOCUMENTS

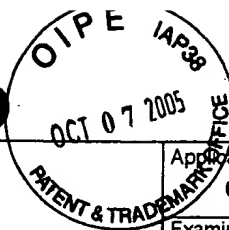
|   | DOCUMENT NO. | DATE    | NAME         | CLASS | SUBCLASS |
|---|--------------|---------|--------------|-------|----------|
| A | 5,978,840    | 11/1999 | Nguyen et al | 709   | 217      |
| B |              |         |              |       |          |
| C |              |         |              |       |          |
| D |              |         |              |       |          |
| E |              |         |              |       |          |
| F |              |         |              |       |          |
| G |              |         |              |       |          |
| H |              |         |              |       |          |
| I |              |         |              |       |          |
| J |              |         |              |       |          |
| K |              |         |              |       |          |
| L |              |         |              |       |          |
| M |              |         |              |       |          |

## FOREIGN PATENT DOCUMENTS

|   | DOCUMENT NO. | DATE | COUNTRY | NAME | CLASS | SUBCLASS |
|---|--------------|------|---------|------|-------|----------|
| N |              |      |         |      |       |          |
| O |              |      |         |      |       |          |
| P |              |      |         |      |       |          |
| Q |              |      |         |      |       |          |
| R |              |      |         |      |       |          |
| S |              |      |         |      |       |          |
| T |              |      |         |      |       |          |

## NON-PATENT DOCUMENTS

|   | DOCUMENT (Including Author, Title, Source, and Pertinent Pages) | DATE |
|---|---|------|
| U |   |      |
| V |   |      |
| W |   |      |
| X |   |      |



## Interview Summary

Application No.  
08/885,597

Applicant(s)

John Tang

Examiner

Thomas Joseph

Group Art Unit

2173



All participants (applicant, applicant's representative, PTO personnel):

(1) Thomas Joseph

(3) \_\_\_\_\_

(2) Walter Davis

(4) \_\_\_\_\_

Date of Interview Mar 19, 2001

Type: ☒ Telephonic ☐ Personal (copy is given to applicant applicant's representative).

Exhibit shown or demonstration conducted: ☒ Yes ☒ No. If yes, brief description:

Agreement ☐ was reached. ☒ was not reached.

Claim(s) discussed: 22-26, 26, and 27

Identification of prior art discussed:

Gish

Description of the general nature of what was agreed to if an agreement was reached, or any other comments:

Attorney asserted that prior art Gish has been overcome. Examiner agreed to examine issue and take appropriate action.

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

1. ☒ It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph above has been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a response to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW.

2. ☐ Since the Examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action. Applicant is not relieved from providing a separate record of the interview unless box 1 above is also checked.

Examiner Note: You must sign and stamp this form unless it is an attachment to a signed Office action.

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 37

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte JOHN TANG, CHRIS RYAN, TREVOR MORRIS  
and ELLEN ISAACS

RECEIVED

MAY 26 2004

Appeal No. 2002-0787  
Application 08/885,597

FINNEGAN, HENDERSON, FARRROW,  
GARRETT AND DUNNER, LLP

ON BRIEF

MAILED

MAY 24 2004

U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Before BARRETT, FLEMING, and BLANKENSHIP, Administrative Patent  
Judges.

FLEMING, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from claims that have been twice rejected. Claims 1 through 32 are all of the claims that are pending in the instant application and are subject to this appeal.

Docketed 5/26/04 Attorney IAB/WDD  
Case 2002-0787  
Due Date 7/24/04  
Action Amendment / req rehearing  
By K-H/L

### Invention

The invention relates to the animation of icons on a computer display. See page 1 of Appellants' specification. A software container is a representation of one or more objects. An object is an entity, such as a program, that has state and functionality. An animated indicator displays a graphical animation on the computer screen that represents a software container. Animated indicators graphically reflect the state of the container, potentially including information such as amount, type, and activity of the container. See page 4 of Appellants' specification.

Figure 1 is a block diagram of an exemplary computer system to display animated indicators. Computer system 100 includes a processor 102 and a memory 104 coupled to a processor 102 through a bus 106. See page 5 of Appellants' specification.

Figure 2 is a high level diagram showing the general software organization of computer system 100 according to the Appellants' invention. System software 202 interfaces application programs, such as container 204 and animated indicator program 206, with the hardware of computer system 100.



Animated indicator program 206 controls the animation sequence of the animated indicators. Monitoring program 208 watches container 204 and informs animation program 206 of pertinent changes in the state of the objects in container 204. In response to changes indicated by monitor 208, animated indicator program 206 may accordingly modify animation. See page 6 of Appellants' specification.

Figure 3 is a flowchart showing the logical flow of animated indicator program 206 according to Appellants' invention. The display of a particular animated indicator is initiated by a user action such as minimizing a container (step 301). Animated indicator program 206, through monitor program 208, examines container 204 and determines whether its state has changed enough to warrant a revised animated cycle (steps 302 and 304). If so, the animated indicator program causes the animated indicators to undergo a new animation cycle (i.e., a series of frames serially displayed and cycled to create animation) (step 306) and displays the cycle (step 308). See pages 6 and 7 of Appellants' specification.

Independent claim 1 present in the application is representative of Appellants' claimed invention and is reproduced as follows:

1. A process for reflecting a state of a software container having objects, comprising:

cyclically displaying a series of frames reflecting a state of the container as an animated sequence;

detecting an event reflecting a change in the state of the container;

determining based on the detected event whether an animated sequence does not reflect the state of the container; and

updating the cyclical display based on the determination.

#### References

The references relied on by the Examiner are as follow:

|                                |                              |               |
|--------------------------------|------------------------------|---------------|
| Baecker et al. (Baecker)       | 5,479,602                    | Dec. 26, 1995 |
| Gudmundson et al. (Gudmundson) | 5,680,619                    | Oct. 21, 1997 |
| Lagarde et al. (Lagarde)       | 5,721,908                    | Feb. 24, 1998 |
|                                | (Filing date June 7, 1995)   |               |
| Johnston Jr. et al. (Johnston) | 5,880,729                    | Mar. 9, 1999  |
|                                | (Filing date May 5, 1995)    |               |
| Nguyen                         | 5,978,840                    | Nov. 2, 1999  |
|                                | (Filing date Sept. 26, 1996) |               |

Gallagher (ed.), Computer Visualization - Graphics Techniques For Scientific and Engineering Analysis, 206-07, 220-27 (1995)

STN Express, Copyright 1996

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Application 08/885,597

### Rejections at Issue

Claims 1, 13, 29, 31 and 32 stand rejected under 35 U.S.C. § 103 as being unpatentable over Baecker in view of Johnston. Claims 2 through 4, 10, 14, and 16 stand rejected under 35 U.S.C. § 103 as being unpatentable over Baecker and Johnston in view of Gudmundson. Claims 5, 6, 9, 11, 12, 15, 17, and 18 stand rejected under 35 U.S.C. § 103 as being unpatentable over Baecker, Johnston, Gudmundson and further in view of Gallagher. Claims 7, 19 through 21, 25, and 30 stand rejected under 35 U.S.C. § 103 as being unpatentable over Johnston. Claims 22 through 24, and 26 stand rejected under 35 U.S.C. § 103 as being unpatentable over STN Express, Johnston, and further in view of Nguyen. Claims 27 and 28 stand rejected under 35 U.S.C. § 103 as being unpatentable over Baecker, Lagarde, and further in view of STN Express and Johnston. Claim 8 stands rejected under 35 U.S.C. § 103 as being unpatentable over Johnston and further in view of Gallagher.

Throughout our opinion, we make references to the briefs<sup>1</sup> and answer for the respective details thereof.

#### OPINION

With full consideration being given to the subject matter on appeal, the Examiner's rejections and the arguments of the Appellants and the Examiner, for the reasons stated *infra*, we reverse the Examiner's rejection of claims 1 through 32 under 35 U.S.C. § 103.

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a *prima facie* case of obviousness. In *re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). See also In *re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. In *re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

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<sup>1</sup>Appellants filed an appeal brief on September 17, 2001. Appellants filed a reply brief on January 7, 2002. The Examiner mailed out an office communication, paper no. 35, stating that the reply brief has been entered and considered.

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Application 08/885,597

Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellants. *Oetiker*, 977 F.2d at 1445, 24 USPQ2d at 1444. See also *Piasecki*, 745 F.2d at 1472, 223 USPQ at 788.

An obviousness analysis commences with a review and consideration of all the pertinent evidence and arguments. "In reviewing the [E]xaminer's decision on appeal, the Board must necessarily weigh all of the evidence and argument." *Oetiker*, 977 F.2d at 1445, 24 USPQ2d at 1444. "[T]he Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion." *In re Lee*, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002). With these principles in mind, we commence review of the pertinent evidence and arguments of Appellants and Examiner.

Rejections of Claims 1 through 6, 13 through 18, 29, 31, and 32

Claims 1, 13, 29, 31 and 32 stand rejected under 35 U.S.C. § 103 as being unpatentable over Baecker in view of Johnston. Appellants argue that Baecker or Johnston do not teach or suggest detecting an event reflecting a change in the state of the container and determining based on the detected event whether an

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animated sequence does not reflect the state of the container.

See pages 8 through 12 of the brief and the reply brief. We note that Appellants' claim 1 recites:

detecting an event reflecting a change in the state of the container; determining based on the detected event whether an animated sequence does not reflect the state of the container.

Claim 13 recites the same language. Claim 32 recites:

detecting an event reflecting a change in the state of the container, wherein the container is a web page related to user discussion; determining based on the detected event whether an animated sequence does not reflect the state of the container.

The Examiner states that Baecker discloses a processor which generates new animation frames whenever the file or folder represents that the icon changes. The Examiner points us to Baecker, column 8, lines 58 through 67. The Examiner relies on Johnston for teaching detecting an event reflecting a change in the state of the container. The Examiner points us to column 2, lines 40 through 50. See pages 3 and 4 of the Examiner's answer.

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Upon our review of Baecker, we agree that Baecker teaches a process which generates a new animation frame whenever the file or folder represented by the icon changes. See Baecker column 7, line 30, through column 8, line 67. However, we fail to find that Baecker teaches determining based upon a detected event whether an animated sequence does not reflect the state of the container as recited in Appellants' claims. Furthermore, we fail to find that Johnston teaches this limitation as well. Johnston teaches an animated effect that can be created by repeatedly redrawing a control element using stored transitional images after a control element has been actuated by the user. See Johnston, column 2, lines 40 through 50. Johnston teaches that figure 5 provides an example of this concept therein, the same rendering entitled "find" is displayed by graphic user interface on a display 30. To the right of the find window 31 in figure 5 is a rectangle which contains an exemplary display. A first static display state 32 is shown which corresponds to the normal display state of the find button before a user activates the button. After the user activates the find button, the user interface enters a routine for providing a transitional effect on the display 30. The transitional effect is an animated sequence

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which gives the visual impression of flipping the find button around an axis. See Johnston, column 3, line 65, through column 4, line 20. Although Johnston does teach animating control elements to transition between the states, we fail to find that Johnston teaches a system for determining based on a detected event whether an animated sequence does not reflect the state of the container as recited in Appellants' claims. Therefore, we will not sustain the Examiner's rejection of claims 1, 13, 29, 31, and 32 under 35 U.S.C. § 103 as being unpatentable over Baecker in view of Johnston.

Claims 2 through 6 are dependent upon claim 1 and claims 14 through 18, and 31 are dependent on claim 13. Thus, these claims recite the above limitation. Claims 2 through 4, 14, and 16 stand rejected under 35 U.S.C. § 103 as being unpatentable over Baecker and Johnston in view of Gudmundson. Upon our review of Gudmundson, we fail to find that Gudmundson teaches a system for determining based upon a detected event whether an animated sequence does not reflect the state of the container. Therefore, we will not sustain this rejection for the same reasons as above.



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Claims 5, 6, 15, 17, and 18 stand rejected under 35 U.S.C. § 103 as being unpatentable over Baecker, Johnston, Gudmundson and further in view of Gallagher. Upon our review of Gallagher, we fail to find that Gallagher teaches a system for determining based upon a detected event whether an animated sequence does not reflect the state of the container. Therefore, we will not sustain this rejection for the same reasons as above as well.

Rejection of Claims 7 through 12, 19 through 21, 25, and 30

Claims 7, 19 through 21, 25, and 30 stand rejected under 35 U.S.C. § 103 as being unpatentable over Johnston. We note that claims 7 and 30 recite:

animated indicator program including computer code for monitoring the software container to detect an event reflecting a change in a state of the container, for determining based on the detected event whether an animated sequence does not reflect the state of the container.

Furthermore, we have already found above that Johnston fails to teach the limitation of determining based upon a detected event whether an animated sequence does not reflect the state of the container. Therefore, we will not sustain this rejection for the same reasons as above.

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Claims 19 and 25 recite:

detecting activity of the closed container; and updating an animated sequence so as to reflect activity of the closed container.

The Examiner states that it would be obvious to one of ordinary skill in the art to detect activity of the closed container and to update the animated sequence so as to reflect the activity of the closed container. See pages 11 and 12 of the answer.

When determining obviousness, "[t]he factual inquiry whether to combine references must be thorough and searching." *Lee*, 277 F.3d at 1343, 61 USPQ2d at 1433, citing *McGinley v. Franklin Sports, Inc.*, 262 F.3d 1339, 1351-52, 60 USPQ2d 1001, 1008 (Fed. Cir. 2001). "It must be based on objective evidence of record." *Id.* "Broad conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence.'" *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

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Upon our review of Johnston, we fail to find that Johnston teaches or suggests detecting activity of a closed container or updating an animated sequence as to whether it will reflect the activity of a closed container. Furthermore, we fail to find that the Examiner has provided us with any evidence to support the Examiner's conclusion that it would have been obvious to provide these limitations. Therefore, we will not sustain the Examiner's rejection of claims 7, 19 through 21, 25 and 30 under 35 U.S.C. § 103 as being unpatentable over Johnston.

Claims 8 through 12 are directly or indirectly dependent on claim 7. Claim 10 stands rejected under 35 U.S.C. § 103 as being unpatentable over Baecker, Johnston and further in view of Gudmundson. As we found above, these references fail to teach a system for determining based upon a detected event whether an animated sequence does not reflect the state of the container. Therefore, we will not sustain the rejection of claim 10 for the same reasons as above. Claims 9, 11, and 12 stand rejected under 35 U.S.C. § 103 as being unpatentable over Baecker, Johnston, Gudmundson and Gallagher. We have found that these references also fail to teach the above limitation. Therefore, we will not sustain this rejection as well. Claim 8 stands rejected under

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Application 08/885,597

35 U.S.C. § 103 as being unpatentable over Johnston in view of Gallagher. We have found that these references have not taught or suggested determining based upon a detected event whether an animated sequence does not reflect the state of the container. Therefore, we will not sustain the rejection of claim 8 for the same reasons as above.

**Rejection of claims 22 through 24, 26, 27, and 28**

Claims 22 through 24, and 26 stand rejected under 35 U.S.C. § 103 as being unpatentable over STN Express in view of Johnston and Nguyen. Claims 27 and 28 stand rejected under 35 U.S.C. § 103 as being unpatentable over Baecker, STN Express, Lagarde in view of Johnston.

We note that claim 22 recites:

detecting if a second computer system has acted upon the container; and updating an animated sequence to be displayed on the first computer system so as to reflect the actions of the second computer system.

We note that claim 26 recites the same language. The Examiner states STN Express teaches a first computer acting upon a software container in a second computer. The Examiner states that Nguyen teaches networking on the Internet. The Examiner further states that it is obvious to one of ordinary skill in the

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Application 08/885,597

art to detect if a second computer system has acted upon the container. See page 13 of the answer.

We fail to find that the Examiner has properly made a *prima facie* case of obviousness. The Examiner has not provided any evidence as to why one of ordinary skill in the art would provide a step of detecting if a second computer system has acted upon the container. In particular, we find that the references fail to teach or suggest detecting if a second computer system has acted upon a container and updating an animated sequence to be displayed on the first computer system so as to reflect the action of the second computer system. Therefore, we will not sustain the Examiner's rejection of claims 22 through 24, and 26 under 35 U.S.C. § 103.

Appellants' claim 27 recites:

code for performing a process for reflecting activity of a software container that is closed, including code for detecting activity of the closed container and code for updating an animated sequence so as to reflect activity of the closed container.

We fail to find that the Examiner has shown that Baecker, STN Express, Lagarde or Johnston teaches these limitations.

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Appellants' claim 28 recites:

code for detecting if a second computer system has acted upon the container, and code for updating an animated sequence to be displayed on the first computer system so as to reflect the actions of the second computer system.

We fail to find that the Examiner has shown that Baecker, STN Express, Lagarde or Johnston teaches this limitation as well. Therefore, we will not sustain the Examiner's rejection of claims 27 and 28 under 35 U.S.C. § 103.

#### NEW GROUND OF REJECTION

We make the following new ground of rejection for claims 19 through 28 under 35 U.S.C. § 112, first paragraph, for failure to comply with the written description requirement.

The first paragraph of 35 U.S.C. § 112 requires that "the specification shall contain the written description of the invention[.]" 35 U.S.C. § 112, first paragraph (1994). This requires the Appellants to "convey with reasonable clarity to those skilled in the art that, as of the filing date sought, he or she was in possession of the invention. The invention is, for purposes of the 'written description' inquiry, whatever is now claimed." *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1563-64, 19 USPQ2d 1111, 1117 (Fed. Cir. 1991). Thus, the inquiry is "not a

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question of whether one skilled in the art might be able to construct the patentee's device from the teachings of the disclosure. . . . Rather, it is a question whether the application necessarily discloses that particular device."

*Lockwood v. American Airlines, Inc.*, 107 F.3d 1565, 1572, 41 USPQ2d 1961, 1966 (Fed. Cir. 1997), citing *Martin v. Mayer*, 823 F.2d 500, 504, 3 USPQ2d 1333, 1337 (Fed. Cir. 1987) (quoting *Jepson v. Coleman*, 314 F.2d 533, 536, 136 USPQ 647, 649-50 (CCPA 1963)).

An Applicant complies with the written description requirement "by describing the invention, with all its claimed limitations[.]" *Id.* "One does that by such descriptive means as words, structures, figures, diagrams, formulas, etc., that fully set forth the claimed invention." *Id.* "[T]he written description must include all of the limitations . . . or the applicant must show that any absent text is necessarily comprehended in the description provided and would have been so understood at the time the patent application was filed." *Hyatt v. Boone*, 146 F.3d 1348, 1354-55, 47 USPQ2d 1128, 1132 (Fed. Cir. 1998).

Claims 19 through 21, 25, and 27 are directed to detecting activity of a closed container and updating an animated sequence so as to reflect activity of the closed container. However, this subject matter is not supported in Appellants' specification or drawings. We fail to find any mention of a process or computer system for reflecting activity of a software container that is closed. Furthermore, we fail to find any description of detecting the activity of the closed container or updating an animated sequence so as to reflect the activity of the closed container.

Claims 22 through 24, 26 and 28 are directed to a process or computer system for reflecting activity of a network-based software container associated with a first computer system that detects if a second computer system has acted upon the container and updating an animated sequence to be displayed on the first computer system so as to reflect the actions of the second computer system. Upon our review of the Appellants' specification and drawings, we fail to find support for this subject matter. In particular, we fail to find any drawings or mention in the specification of detecting if a second computer system has acted upon a container as well as any description of



updating an animated sequence to display on the first computer system so as to reflect the actions of the second computer system. Therefore, we find that the Appellants have not conveyed with reasonable clarity to one skilled in the art that they had possession of the claimed invention recited in claims 19 through 28 as required under 35 U.S.C. § 112, first paragraph.

#### CONCLUSION

In view of the foregoing, the decision of the Examiner rejecting claims 1 through 32 under 35 U.S.C. § 103 is reversed.

The decision contains a new ground of rejection pursuant to 37 CFR § 1.196(b) (amended effective Dec. 1, 1997, by final rule notice, 62 Fed. Reg. 53,131, 53,197 (Oct. 10, 1997), 1203 Off. Gaz. Pat. & Trademark Office 63, 122 (Oct. 21, 1997)). 37 CFR § 1.196(b) provides that "[a] new ground of rejection shall not be considered final for purposes of judicial review."

37 CFR § 1.196(b) also provides that the appellants, WITHIN TWO MONTHS FROM THE DATE OF THE DECISION, must exercise one of the following two options with respect to the new ground of rejection to avoid termination of proceedings (37 CFR § 1.197(c)) as to the rejected claims:

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Application 08/885,597

(1) Submit an appropriate amendment of the claims so rejected or a showing of facts relating to the claims so rejected, or both, and have the matter reconsidered by the Examiner, in which event the application will be remanded to the Examiner . . .

(2) Request that the application be reheard under § 1.197(b) by the Board of Patent Appeals and Interferences upon the same record . . .

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

REVERSED; 1.196 (b)

Lee & Barnett

LEE E. BARRETT  
Administrative Patent Judge

MICHAEL R. FLEMING

MICHAEL R. FLEMING  
Administrative Patent Judge

HOWARD B. BLANKENSHIP

HOWARD B. BLANKENSHIP  
Administrative Patent Judge

BOARD OF PATENT  
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MRF:pgc

Appeal No. 2002-0787  
Application 08/885,597

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**PATENT APPLICATION INFORMATION RETRIEVAL**

**Patent Term Adjustment (PTA) for publication number: 08/885,597**

|                              |            |                             | Days |
|------------------------------|------------|-----------------------------|------|
| Filing or 371(c) Date:       | 06-30-1997 | USPTO Delay (PTO):          | 1032 |
| Issue Date of Patent:        | -          | Three Years:                | -    |
| Pre-Issue Petitions (days):  | +0         | Applicant Delay (APPL):     | 57   |
| Post-Issue Petitions (days): | +0         | Total PTA:                  | 975  |
| USPTO Adjustment (days):     | +0         | Explanation of Calculations |      |

**Search Options**

|                    |
|--------------------|
| Assignments        |
| Display References |
| Image File Wrapper |
| File History       |
| Publication Review |

**Patent Term Adjustment History**

| Date       | Contents/Description                            | PTO (days) | APPL (days) |
|------------|---|------------|-------------|
| 07-07-2005 | Mail Notice of Allowance                        |            |             |
| 07-06-2005 | Issue Revision Completed                        |            |             |
| 07-06-2005 | Notice of Allowance Data Verification Completed |            |             |
| 07-06-2005 | Case Docketed to Examiner in GAU                |            |             |
| 06-15-2005 | Date Forwarded to Examiner                      |            |             |
| 06-09-2005 | Amendment after Final Rejection                 |            |             |
| 04-08-2005 | Correspondence Address Change                   |            |             |
| 03-13-2005 | IFW TSS Processing by Tech Center Complete      |            |             |
| 02-09-2005 | Information Disclosure Statement (IDS) Filed    |            | 36          |
| 02-09-2005 | Reference capture on IDS                        |            | ↑           |
| 03-10-2005 | Mail Final Rejection (PTOL - 326)               |            | ↑           |
| 03-07-2005 | Final Rejection                                 |            | ↑           |
| 02-09-2005 | Mail Examiner Interview Summary (PTOL - 413)    |            | ↑           |
| 02-04-2005 | Examiner Interview Summary Record (PTOL - 413)  |            | ↑           |
| 01-19-2005 | Date Forwarded to Examiner                      |            | ↑           |
| 01-04-2005 | Response after Non-Final Action                 |            | ↑           |
| 01-04-2005 | Workflow incoming amendment IFW                 |            |             |
| 10-07-2004 | Mail Non-Final Rejection                        |            |             |
| 10-01-2004 | Non-Final Rejection                             |            |             |
| 08-27-2004 | Case Docketed to Examiner in GAU                |            |             |
| 08-12-2004 | Case Docketed to Examiner in GAU                |            |             |
| 07-14-2004 | Amendment/Argument after BPAI Decision          |            |             |
| 07-14-2004 | Workflow incoming amendment IFW                 |            |             |

|            |  |      |    |
|------------|--|------|----|
| 04-24-2004 | Mail BPAI Decision on Appeal - Reversed                            | 1032 |    |
| 04-24-2004 | BPAI Decision - Examiner Reversed                                  | ↑    |    |
| 05-06-2004 | Case Docketed to Examiner in GAU                                   | ↑    |    |
| 11-22-2002 | Waiver of Hearing by Appellant                                     | ↑    |    |
| 03-29-2002 | Assignment of Appeal Number  | ↑    |    |
| 02-12-2002 | Case Docketed to Examiner in GAU                                   | ↑    |    |
| 01-16-2002 | Mail Reply Brief Noted by Examiner                                 | ↑    |    |
| 01-16-2002 | Mail Miscellaneous Communication to Applicant                      | ↑    |    |
| 01-15-2002 | Miscellaneous Communication to Applicant - No Action Count         | ↑    |    |
| 01-15-2002 | Reply Brief Noted by Examiner                                      | ↑    |    |
| 01-10-2002 | Date Forwarded to Examiner   | ↑    |    |
| 01-07-2002 | Reply Brief Filed  | ↑    |    |
| 11-06-2001 | Mail Examiner's Answer   | ↑    |    |
| 11-05-2001 | Examiner's Answer to Appeal Brief                                  | ↑    |    |
| 09-22-2001 | Date Forwarded to Examiner   | ↑    |    |
| 09-17-2001 | Appeal Brief Filed   | ↑    |    |
| 09-17-2001 | Request for Extension of Time - Granted                            | ↑    |    |
| 06-28-2001 | Notice of Appeal Filed   | ↑    | 21 |
| 03-28-2001 | Mail Notice of Restarted Response Period                           |      | ↑  |
| 03-28-2001 | Letter Restarting Period for Response (i.e. Letter re: References) |      | ↑  |
| 03-07-2001 | Mail Final Rejection (PTOL - 326)                                  |      | ↑  |
| 03-06-2001 | Final Rejection  |      |    |
| 03-01-2001 | Date Forwarded to Examiner   |      |    |
| 02-16-2001 | Response after Non-Final Action                                    |      |    |
| 11-16-2000 | Mail Non-Final Rejection   |      |    |
| 11-15-2000 | Non-Final Rejection  |      |    |
| 10-12-2000 | Preliminary Amendment  |      |    |
| 10-19-2000 | Date Forwarded to Examiner   |      |    |
| 10-12-2000 | Continuing Prosecution Application - Continuation (ACPA)           |      |    |
| 10-12-2000 | Mail Express Abandonment (During Examination)                      |      |    |
| 10-12-2000 | Express Abandonment (during Examination)                           |      |    |
| 10-12-2000 | Request for Extension of Time - Granted                            |      |    |
| 10-12-2000 | Workflow - Request for CPA - Begin                                 |      |    |

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